UN

A

UNITED NATIONS

General Assembly

Distr.
GENERAL

A/CONF.157/LACRM/8
18 December 1992

Original: ENGLISH

WORLD CONFERENCE ON HUMAN RIGHTS
Regional Meeting for Latin America and
the Caribbean
San José, Costa Rica
18-22 January 1993
Item 11 of the provisional agenda

RECOMMENDATIONS TO ENSURE THE EFFECTIVE ENJOYMENT OF ALL HUMAN RIGHTS AND IMPROVE THE COORDINATION OF THE MECHANISMS OF THE UNITED NATIONS AND REGIONAL SYSTEMS, AS WELL AS THE RELATIONSHIP BETWEEN THEM, AS APPROPRIATE

Recommendations to the World Conference on Human Rights adopted at the Fifth Human Rights Conference of the International Academy for Development in Freedom, Sintra (Portugal), 18-23 November 1992

1. From 18 to 23 November 1992, a group of 30 persons with experience in the field of human rights met at the International Academy for Development in Freedom in Sintra (Portugal) to consider reports on various human rights issues with a view to formulating recommendations to the United Nations World Conference on Human Rights. The participants, mainly from developing countries and drawn from international organs, governments, parliaments, political parties, and non-governmental organizations, reflected diverse perspectives on human rights.

2. The discussions of the Sintra Conference led to a series of recommendations the text of which is attached. They are addressed to the World Conference, but the Secretariat considered it appropriate to submit them to the Regional Meeting for Latin America and the Caribbean under the item related to the recommendations to ensure the effective enjoyment of all human rights.

GE.92-14912 (E)

RECOMMENDATIONS TO THE UNITED NATIONS WORLD CONFERENCE ON HUMAN RIGHTS

Introductory Summary

The Sintra Conference (Sintra, Portugal, 18-23 November 1992) recognized the significant progress that has been made in the protection of human rights since the first World Conference on Human Rights in Tehran in 1968 as a result of the joint efforts of the United Nations, Governments, non-governmental organizations, and the peoples of the world. On the other hand, it was agreed that serious violations of human rights are still prevalent throughout the world and that there is an urgent need to review the existing instruments and institutions at the national, regional, and international levels and to consider the creation of new institutions in order to establish a world order in which human rights are effectively protected.

The Sintra Conference welcomes the World Conference on Human Rights as it provides an opportunity for the community of nations and the peoples of the world, represented by Governments and non-governmental organizations, to reaffirm their commitment to the advancement of human rights, to assess the present state of human rights throughout the world and to consider the creation of new instruments and institutions to deal with the flagrant and massive violations of human rights that threaten humankind.

In order to assist the World Conference in its deliberations and decision-making, the Sintra Conference resolved to recommend that the World Conference should:

1. Establish the post of Special Commissioner on Human Rights;

2. Affirm with new vigour the rights of minorities and indigenous peoples;

3. Extend the existing humanitarian conventions to cover all the victims of internal armed conflicts;

4. Give close attention to the implementation of existing norms for the persons belonging to particularly vulnerable groups;

5. Resolve that all regions should adopt instruments and institutions that incorporate the principles of the international bill of human rights;

6. Resolve that these arrangements should create institutions that provide individuals, groups and States with speedy and effective remedies for the enforcement of human rights;

7. Pay greater attention to the promotion of social, economic and cultural rights and to the enforcement of these rights;

8. Recommend that human rights are incorporated in the formulation of the social, economic and cultural programmes of States, regional bodies and international institutions;

9. Resolve that particular attention should be paid in regional arrangements to human rights norms and that discriminatory practices in the areas of immigration, asylum and the treatment of refugees and displaced persons be ended;

10. Affirm that states of emergency should not result in the arbitrary denial of the obligations assumed in regional or international human rights standards;

11. Adopt mechanisms to ensure that States accede to all international human rights instruments and take steps to ensure their incorporation into enforceable national legislation;

12. Urge States to adjust their political institutions or to establish new institutions in order to create democratic and legitimate systems of government;

13. Give priority to policies which strengthen the independence of the judiciary and the efficiency of the administration of justice;

14. Recommend that municipal and provincial and provincial law provides effective protection of human rights;

15. Urge all States to provide a legal environment in which independent non-governmental human rights organizations are encouraged to fulfil their task to contribute effectively to the protection and promotion of human rights;

16. Reaffirm that the respect of the freedom of thought, conscience and religion as a fundamental human right in all countries is a precondition for peace within and among nations;

17. Urge that all Member States of the United Nations guarantee the freedom of opinion, free access to information and the media as well as full access to governmental information and archives;

18. Recommend for States to provide guidelines, assistance, prevention, treatment and sanctions by legal and other social means to address issues concerning domestic violence, abuse and mistreatment;

19. Resolve that all States support human rights education programmes and give full publicity to human rights and the international, regional and national instruments available for their enforcement.

The Sintra Conference appeals to the World Conference on Human Rights to be held in Vienna to adopt these recommendations in pursuance of its aim to establish a world order premised on respect for human rights and committed to the effective advancement of these rights at national, regional, and international levels. Progress towards the achievement of these goals would serve as a fitting tribute to those many women and men who have sacrificed their lives for the creation of a better world.

A. Issues and policies for the next decade and their international implementation

The end of the cold war gives us the first opportunity this century to depoliticize the implementation of human rights norms in their entirety, as set forth in the international bill of human rights. Much progress has been made in the evolution of standards and mechanisms on many aspects of the protection of civil and political rights; there remains, however, a need for the effective implementation of these standards. Of equal importance is the further elaboration of these standards and the development of mechanisms for the more effective implementation of economic, social, and cultural rights. There is today, furthermore, an urgent need to reassert and reinforce the indivisibility of all human rights in practice.

There is a close interrelationship between human rights, democracy, and development. Particularly in this period of transition, the responsible management of change requires the active participation of all concerned in the democratic life and the full observance of all human rights. Free and fair elections are one component of the democratic process, but in addition, such process must lead to the regular functioning of institutions which will oversee the provision and implementation of the full range of civil, political, economic, social and cultural rights. The democratic process should furthermore provide means to secure its own sustainability. The invocation of emergency measures should only be in conformity with international standards and subject to international scrutiny.

There is a need to find ways to render operational the formulation of the right to development as expressed in the 1986 United Nations Declaration on the subject in order to ensure that the human person remains at the centre of the integral process of development, encompassing civil, political, economic, social, and cultural rights. To that end, effective action is needed on the part of all those involved in the process, particularly international financial institutions.

The recent recognition of new human rights, such as the right to development and the right to a healthy environment, is part of a continuing evolution of international human rights standards. Such new rights should be elaborated so as to enrich existing fundamental rights and not to restrict them.

The observance of human rights is essential to the United Nations objectives of the creation and maintenance of peace and equal rights. The United Nations human rights programme should accordingly be given the material and financial resources commensurate with its role.

In order to strengthen the human rights mandate of the United Nations, it is recommended that the post of Special Commissioner on Human Rights be established as a new high-level political authority to bring great effectiveness, coherence and coordination into the field of international human rights promotion and protection.

New problem areas in the field of human rights should promptly be addressed. These include:

1. The affirmation of the rights of minorities and indigenous peoples to preservation of identity and equality of rights with the majority population;

2. The provision of means of protection for internally displaced persons and victims of internal armed conflicts not covered by international humanitarian law;

3. The provision of effective implementation of existing norms and better protection for children, women and other particularly vulnerable groups such as migrant workers, the elderly, HIV or AIDS infected persons, the extremely poor, refugees, displaced persons and the disabled, among others.

Further progress is dependent upon the continued efforts on the part of United Nations Member States and non-governmental actors in the field of education for the further promotion of human rights at all levels. In order to encourage respect for human rights in States, democracy at the national level should be parallelled at the international level starting with the United Nations system and with particular attention to the international financial institutions. Further progress is also dependent upon the recognition of the accountability and accessibility of the United Nation system to non-governmental organizations.

B. The improvement of regional structures and institutions

1. The importance of regional institutions and mechanisms for the promotion and protection of human rights is hereby recognized and endorsed. Concrete actions should be taken to strengthen these regional institutions and mechanisms, where they exist, and encourage their establishment where they are non-existent.

2. Regional instruments and institutions for the protection of human rights should adopt the standards set by the Universal Declaration of Human Rights and other international human rights instruments as the minimum standard for the formulation, establishment and implementation of their human rights norms.

3. Regional instruments and institutions should take into account the following considerations:

   (a) The need to ensure prompt consideration of complaints brought before them and in particular provide for emergency procedures to deal with urgent complaints.

   (b) The need to provide for wide and unhindered access by individuals, groups and States.

4. (1) The competent political bodies of regional institutions should promote means of enforcement of the decisions made by the organs of human rights protection.

(2) They should not have the power to reverse the decisions reached by the regional protection bodies, but should instead seek to enforce them.

(3) The binding character of these decisions and their publication are essential.

5. The competent political bodies of regional institutions should study the possibility of creating new organs, or of enhancing the competence of existing organs of protection in the field of economic, social and cultural rights.

6. The dissemination of proper information, creation of awareness about existent instruments and mechanisms of human rights protection are an essential condition for human rights protection.

7. Cooperation between regional institutions in the field of human rights should be encouraged to advance mutual understanding and exchange of ideas and experiences.

8. Regional institutions should take into account human rights considerations in the formulation of their economic, social, cultural, and other policies and programmes for implementation within the region.

9. The problems of racial discrimination and xenophobia with their particular manifestations in discriminatory policies regarding immigration, asylum and refugees are recognized, and require that regional instruments and institutions in concert with the United Nations work to eliminate these problems.

10. Increasing numbers of displaced persons require regional and international systems that guarantee protection.

11. Widespread violations of human rights under states of emergency require more comprehensive norms and guidelines to be developed for the preservation of human rights at the regional levels.

12. Nations have sometimes deviated from universal human rights standards in the name of regional particularities or religious, cultural and traditional values. In such situations universal norms should prevail.

13. Particular recent developments have underlined the vital role that non-governmental organizations play in the promotion of human rights throughout the world. It is time to formally recognize the role and status of non-governmental organizations in international and regional human rights procedures and institutions.

C. Issues and policies for the next decade and their implementation by national institutions

1. Increasingly throughout the world, the prevailing forms of government are nominal democracies and a variety of authoritarian regimes. Authentic democracy is the form of government that allows and guarantees the full participation as well as the human development of people. Therefore, the existence of democracy is a necessary condition for the enjoyment of human rights.

2. Implementation of these rights requires the Governments to adjust their political institutions and to create the conditions for political pluralism, including the free development of political parties and grass-roots organizations. The subordination of the military to civilian authority, and the political participation of the people are also necessary. In other words, the authorities in a democratic Government must have legitimacy with the people.*

3. In countries in which there is no rule of law nor independence of the judiciary, nor legal assistance for those deprived of economic means, justice is denied. Consequently, it is of paramount importance to give priority to policies which strengthen the judiciary and the efficiency of the administration of justice. The international system for the protection of human rights is subsidiary to the national level. A functioning independent judiciary at the national level is the basis for the implementation of human rights.

4. National legislation, such as a national constitution, should guarantee fundamental human rights. In the absence thereof, or as a complementary measure, Governments should ratify or accede to international instruments which they should then assure are implemented. What is essential is the political will to implement international treaties and create the legal mechanisms to incorporate them into domestic legislation. The legislative bodies should take the necessary measures to facilitate the incorporation of the rights included in these treaties into their legislation so that they become justiciable and enforceable at the national level. The United Nations supervisory bodies should devise a system of enforcement whereby sanctions are applied to those States that become parties to, but fail to enforce treaty provisions or that render them non-self-executing.

---

* Democracy can be identified as the system in which the following elements, inter alia, are included: legislative and executive authorities are electorally determined; military and police corps are subject to civilian authority; the rule of law prevails; the rights of minorities are protected; due process of law is guaranteed.

5. In countries in which non-governmental organizations operate freely and their activities are not restricted by Governments, human rights are better promoted and protected. Similarly States that provide for national institutions such as the post of a human rights ombudsman evidence and attempt to enhance the protection of such fundamental rights. It is essential that such entities operate independently in the investigation of human rights violations and are able to rely on the governmental authorities for the appropriate prosecution of those alleged to be responsible. The Government must provide a legal environment in which non-governmental human rights organizations can function and obtain the necessary financing to carry out their activities.

6. Freedom of thought, conscience and religion is a fundamental human right. Such beliefs have historically informed the content of international human rights norms. Nonetheless, belief structures should not be allowed to replace freedoms guaranteed by existing human rights standards nor be used as a pretext for the failure to implement such rights.

7. Restrictions on the media or on the access to information, or secrecy laws, or censorship or propaganda constitute a serious impediment to the exercise of basic human rights. Therefore, Governments should adopt the requisite policies to guarantee free access to information and the media, and full access to governmental information and archives.

8. Human rights abuses also occur within the family. Therefore, Governments and the United Nations should address issues concerning domestic violence, abuse and mistreatment. It is necessary for States to provide guidelines, assistance, prevention, treatment and sanctions by legal and other social means.